

## Commodity Credit Corporation, USDA

## § 1422.2

the Office of Management and Budget under provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Numbers 0560-0009 and 0560-0036.

[Amdt. 4, 50 FR 29641, July 22, 1985]

### PART 1422—PEANUTS

#### Subpart—Standards for Approval of Cold Storage Warehouses for Peanuts

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AUTHORITY: Sec. 4, 62 Stat. 1070, as amended; (15 U.S.C. 714b).

#### Subpart—Standards for Approval of Cold Storage Warehouses for Peanuts

SOURCE: 32 FR 20767, Dec. 23, 1967, unless otherwise noted.

##### § 1422.1 General statement and administration.

(a) This subpart prescribes the procedure to be followed by warehousemen who desire the Commodity Credit Corporation (hereinafter referred to as "CCC") to approve their cold storage warehouses for the storage and handling, under contract with CCC, of shelled peanuts which are owned by CCC or held by CCC as security for price support loans and which require refrigerated storage. It also prescribes the requirements of CCC for approval of such warehouses. Warehousemen desiring to secure approval of their warehouses under this subpart may obtain information and the necessary application and other forms from (1) the Producer Associations Division, Farm Service Agency, U.S. Department of Agriculture, Washington, DC 20250, or (2) the following associations, each of which, under contract with CCC, performs certain functions in connection

with CCC's inventory of peanuts: GFA Peanut Association, Camilla, Ga. (Southeastern Area); Southwestern Peanut Growers Association, Gorman, Tex. (Southwestern Area); and Peanut Growers Cooperative Marketing Association, Franklin, Va. (Virginia-Carolina Area). Warehousemen shall submit all forms, statements, and other information required by this subpart to be furnished to CCC to the association in the area where the warehouse is located.

(b) Although a warehouse must be approved by CCC before it will be used for the storage and handling of peanuts, such approval, or the execution of a storage contract with the warehouseman, does not constitute a commitment that the warehouse will be used by CCC and no official or employee of CCC or any association named in this section is authorized to make any such commitment.

##### § 1422.2 Standards for warehousemen and warehouses.

Initial approval of a warehouse by CCC, and its continued approval of an approved warehouse, are conditioned upon conformance with the following standards.

(a) The warehouseman shall, except as provided in § 1422.6:

(1) Be an individual, partnership, or an existing legal entity engaging in the business of storing for hire and, if organized in the corporate form, have charter authority to engage in such business.

(2) Have sufficient experience in, and knowledge of, the warehousing business to enable him to give adequate protection and services with respect to the peanuts to be stored.

(3) Have satisfactorily complied with all previous contracts with CCC and instructions issued thereunder: *Provided, however,* That this provision shall apply only in circumstances excepted from CCC regulations governing suspension and debarment (31 FR 4950), and any amendments thereto, unless suspension or debarment action has been taken as provided in such regulations.

(4) Have a net worth of at least \$10,000 to assure his financial responsibility.

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(5) Have sufficient funds available to meet ordinary operating expenses which, if not paid, would cause cessation of operations.

(6) Furnish CCC a completed Application for Approval of a Warehouse (Form CCC-1029).

(7) Furnish CCC a completed Schedule of Rates (Form CCC-1030-2) on which he certifies that the rates quoted in the schedule are not in excess of rates charged other customers.

(8) Furnish CCC financial statements as may be required under § 1422.3.

(9) Furnish CCC surety bonds as may be required under § 1422.4.

(10) Maintain complete and accurate inventory and operating records.

(11) If State or local law requires that warehousemen be licensed to engage in the business of storing goods for hire, furnish CCC evidence that he is so licensed by the appropriate licensing authority.

(b) Supervisory employees of the warehouse shall meet the requirements of (1) paragraph (a)(2) of this section, and (2) paragraph (a)(3) of this section.

(c) Owners, directors, responsible officers, and employees of the warehouse shall meet requirements of paragraph (a)(3) of this section.

(d) The warehouse shall meet the following requirements:

(1) Be of sound construction with equipment in good repair, and so constructed as to adequately protect the peanuts.

(2) Be under the control at all times of the warehouseman who executes the storage contract. Peanuts are not to be stored in an area operated as a "field warehouse" unless the warehouseman is the "field warehouseman."

(3) Not be subject to greater than normal risk of fire, flood, or other hazards.

(4) Have equipment to adequately handle, preserve, and protect the peanuts, including dual refrigeration units and adequate fire fighting equipment.

(5) Have space for the storage separate from peanuts of any products which CCC determines adversely affect the storage life, quality, or flavor of peanuts or are subject to a significantly greater fire risk than peanuts.

(6) Have adequate load-out capacity, as determined by CCC.

[32 FR 20767, Dec. 23, 1967; 33 FR 223, Jan. 6, 1968]

### § 1422.3 Financial statement.

(a) Except as provided in § 1422.6, the warehouseman shall furnish either (1) a fully completed financial statement on Form TW-51, Financial Statement, or (2) a Form TW-51 (i) completed as to page 1 and the General Information and Certification section of page 4, and (ii) accompanied by a financial statement prepared and certified or otherwise authenticated by the public accountant to the extent consistent with the accountant's verification of the facts contained in the statement. Such certification or authentication may be separate from the financial statement. The warehouseman shall execute the Certification on Form TW-51 in every case.

(b) A financial statement furnished by a warehouseman shall show the financial condition of the warehouseman as of the date not more than 60 days prior to (1) the date of the application, if the statement accompanies the application, or (2) the date of the statement, if the statement is furnished under § 1422.9.

(c) The financial statement and other financial data furnished by a warehouseman will not be disclosed by CCC except as required by law or authorized by CCC regulations relating to official records.

### § 1422.4 Bonding requirements.

(a) Except as provided in § 1422.6 and paragraph (b) of this section, the warehouseman shall furnish to CCC a performance bond, executed on a form furnished or approved by CCC by surety companies which have been approved by the U.S. Treasury Department (Circular No. 570) and which maintain an officer or representative authorized to accept service of legal process in the State where the warehouse is located.

(1) The amount of such performance bond shall be not less than 5 percent of the net book value of the estimated quantity of peanuts to be stored, but in no event less than \$5,000 or, except as provided in paragraph (c) of this section more than \$100,000.

(2) The warehouseman may apply against the total amount of bond coverage required the amount of a surety bond which is furnished under State law or under operational rules of non-governmental supervisory bodies and which is determined by the Director, Producer Associations Division, to protect adequately the interest of CCC.

(b) Cash, negotiable securities, and legal liability insurance policies may be accepted in lieu of the equivalent amount of required bond coverage under the following conditions:

(1) CCC will determine the acceptability of and valuation to be placed on any cash or negotiable securities offered in substitution for bond coverage. When the period for which the bond was required has ended and it is determined that all liability under the storage agreement with CCC has terminated, the cash or securities will be returned to the warehouseman.

(2) Legal liability insurance policies offered in substitution for bond coverage must show CCC as the insured and be approved by the Director, Producer Associations Division.

(c) Notwithstanding any other provisions of this subpart, CCC may require additional bond coverage if in the light of all the circumstances relating to the operation of the warehouse, CCC determines that the amount of bond coverage required under paragraph (a)(1) of this section is not sufficient to protect adequately the interests of CCC.

#### **§ 1422.5 Inspection of warehouses.**

Except in the case of a warehouse licensed under the U.S. Warehouse Act for the storage and handling of peanuts, prior to the time CCC approves a warehouse for the storage and handling of peanuts CCC will have the warehouse examined and will take such other action as it considers necessary to determine whether the requirements of § 1422.2 have been met. The warehouse examiner will make recommendations regarding the approval or disapproval of the warehouse.

#### **§ 1422.6 Exemptions.**

Notwithstanding any other provision of this subpart:

(a) Warehousemen licensed under the U.S. Warehouse Act for the storage and

handling of peanuts will not be required to furnish performance bonds or financial statements in order to be approved by CCC, and their warehouses will not be subject to regular examinations other than those required by that Act, but will be subject to such special examinations as CCC may determine are necessary. All other requirements of this subpart shall, unless otherwise provided, be met by such warehousemen seeking approval under this subpart.

(b) CCC will accept a Certificate of Competency issued by the Small Business Administration with respect to a warehouseman as establishing conformance by the warehouseman with the standards prescribed in § 1422.2(a)(1), (2), (4), and (5); (b)(1); and (d)(1), (2), (3), and (4).

(c) CCC may approve a warehouseman who meets the standard set forth in paragraph (a)(4) of § 1422.2 but who fails, or whose warehouse fails to meet one or more of the other standards of that section, if (1) CCC determines that the storage and handling conditions within the warehouse provide satisfactory protection for peanuts, (2) CCC determines that the services of the warehouseman are required, and (3) the warehouseman furnishes additional bond coverage (or acceptable substitute security) which is in an amount equal to at least twice the amount of the bond requirement under § 1422.4(a)(1) and which meets the other requirements of § 1422.4.

#### **§ 1422.7 Basis for approval or disapproval.**

A review and an analysis will be made of the information disclosed by the warehouseman's application, warehouse examiner's report and recommendation, financial statement, credit reports, and other pertinent information available from other sources. If, on the basis of this review and analysis, it is determined that the warehouseman and the warehouse conform with the standards and other requirements set out in this subpart, the warehouse will be approved. If it is determined that the warehouseman fails to meet the standard set forth in §§ 1422.2(a)(4) and 1422.8, the warehouse will not be approved. If it is determined

that one or more of the other standards of § 1422.2 are not met, the applicant may be approved as provided in § 1422.6(c).

**§ 1422.8 Other conditions for disapproval.**

Applications shall not be approved (or existing approval continued in effect) if:

(a) The warehouseman (if license is required) is in violation of any provisions of the regulations of the licensing authority, or if any condition which has resulted or may result in the refusal, suspension, or revocation of the applicable warehouse license has not been corrected. Correction of any such condition shall not result in automatic approval of the warehouse and CCC may require the submission of a new application, such additional information as it deems pertinent, and a new inspection of the warehouse to determine whether it meets the requirements of this subpart.

(b) The warehouseman operating the warehouse for which approval is being sought, or any of the directors, responsible officers and employees thereof are suspended or debarred from contracting pursuant to regulations of CCC.

**§ 1422.9 Approval of warehouse and duration of approval.**

(a) After a warehouse has been approved and the applicable storage contract has been signed by CCC, a copy of such contract will be forwarded to the warehouseman by CCC. The warehouse will then be eligible to store and handle CCC-owned and loan peanuts.

(b) The financial condition of, and the amount of bond or substitute security furnished by, approved warehousemen will be reviewed from time to time to determine that the requirements of CCC are being met and the warehouseman shall furnish any additional bond coverage or substitute security which may be determined by CCC to be required under the provisions of this subpart. The warehouse will be reexamined from time to time to determine its continued compliance with the standards and requirements of this subpart. If at any time it is determined that a warehouseman or the warehouse does not conform with the standards

and other requirements set out in this subpart, CCC shall take such appropriate action as may be necessary to protect the interests of CCC.

(c) Approval of the warehouse will remain in effect until the warehouse is removed from the list of approved warehouses, the storage contract is terminated, or the warehouseman is suspended or debarred from contracting with CCC under applicable regulations.

**§ 1422.10 Waiver of requirements.**

If warehousing services required in fulfilling responsibilities under CCC's programs cannot be secured under the provisions of this subpart and no reasonable and economical alternative is available, CCC may exempt the applicant from one or more of the provisions of this subpart and may establish other requirements in lieu thereof as determined necessary to safeguard the interests of CCC. Such action may be taken only by the Executive Vice President, Commodity Credit Corporation.

**PART 1423—PROCESSED AGRICULTURAL COMMODITIES**

**Subpart—Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils**

Sec.

1423.1 General statement and administration.

1423.2 Basic standards.

1423.3 Bonding requirements for net worth.

1423.4 Examination of warehouses.

1423.5 Exceptions.

1423.6 Approval of warehouse, requests for reconsideration.

1423.7 Exemption from requirements.

1423.8 OMB control numbers assigned pursuant to Paperwork Reduction Act.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended, (15 U.S.C. 714b and c).

**Subpart—Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils**

SOURCE: 44 FR 67081, Nov. 23, 1979, unless otherwise noted.